

REMARKS

This paper is responsive to the Office Action mailed May 18, 2004. The Office Action, made final, objected to the specification and rejected Claims 1-36 under 35 U.S.C. § 112. There were no objections or rejections based on prior art.

At issue is the recitation of "dynamic metric data" and "dynamic ratio of the quoted value and at least one metric value derived from the dynamic metric data" as set forth in independent Claims 1, 18, and 32. In an interview conducted June 10, 2004, Examiner Subramanian and Examiner Weisberger expressed their concern about use of the word "dynamic" in Claims 1, 18, and 32. Applicant's attorney explained that the word "dynamic" was suggested by the previous examining attorney (Examiner Akers) based on his thorough review of the application. Applicant agreed with Examiner Akers to enter the amendment with the understanding that the added term did not change the scope of the claims nor present any problem from the standpoint of 35 U.S.C. § 112. Given the discussion now with Examiner Subramanian and Examiner Weisberger, applicant is agreeable to remove the term.

This response amends only Claims 1, 18, and 32 to remove the term "dynamic." Again, applicant submits that inclusion or removal of this term neither changes the scope of the claims nor is required for purposes of overcoming the prior art. This application has gone through substantial examination to date including four Office Actions and responses, and a request for continued examination. Applicant believes that the Patent Office has thoroughly searched and presented the closest prior art, and based on the prior art of record, the present application is in allowable form. The amendments are minor and should not require undue additional effort on the part of the Patent Office to review and approve for allowance. Action to that end is earnestly requested.

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Interview Summary

37 C.F.R. 1.133(b) requires the applicant to present a written statement of the reasons presented at an interview as warranting favorable action by the Patent Office. The following section is provided to comply with that duty.

Specifically, applicant's attorney discussed the reason for including the term "dynamic" in the first place (suggested by Examiner Akers) and why applicant believed that the claims with the term were supported by the written description and enablement requirements of 35 U.S.C. § 112. After discussing the matter with Examiner Subramanian and Examiner Weisberger, applicant agreed it is appropriate to present the claims without the term.

The following discussion is thus no longer applicable to the claims as amended, but is provided here solely for the purpose of making a complete record. The term "dynamic" as previously presented to the Patent Office was believed to be supported by the written description and enablement requirements of 35 U.S.C. § 112 because the claimed "metric data" represents price data indicative of one or more market prices. The source of the metric data may be an industry specific reporting service such as Crowes™ or Random Lengths™ or the Chicago Mercantile Exchange, for example. See page 16, lines 3-10 and page 18, lines 11-14. Since market prices are subject to constant change, the metric data that is received is dynamic (*i.e.*, subject to change). Accordingly, it is desirable for the buyer to select a metric source that provides the most current pricing data available. See page 18, lines 5-11.

Furthermore, the claimed "comparison value" varies according to changes in the metric data, even if the seller's quoted value remains constant. As a result, the comparison value (which is a ratio of the quoted value and the metric value) is dynamic in that it changes according to the market prices represented by the metric data. The calculation of a comparison value based on a

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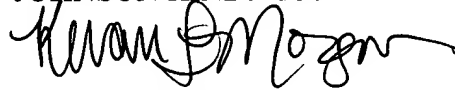
ratio as described above is specifically shown at step 940 in FIGURE 9 and described at page 16, lines 16-20.

CONCLUSION

Applicant respectfully requests entry of the minor amendments to Claims 1, 18, and 32 noted above, which resolve the Section 112 issues. All concerns regarding prior art have previously been addressed with the Patent Office in prior responses to Office Actions. The application is in condition for immediate allowance. Should any questions or concerns remain, the Examiner is invited to contact applicant's attorney at the telephone number indicated below.

Respectfully submitted,

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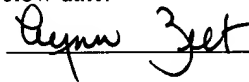
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to **Mail Stop AF**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: July 19, 2004



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